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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,621	03/08/2001	Jan Gerben Wijnstra	NL000122	8300

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

PATEL, HARESH N

ART UNIT

PAPER NUMBER

2154

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/801,621

Applicant(s)

WIJNSTRA, JAN GERBEN

Examiner

Haresh Patel

Art Unit

2154

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: None.

Claim(s) rejected: 1-7.

Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____

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Continuation of 11. does NOT place the application in condition for allowance because: the cited prior arts still render the claims unpatentable and the final rejection is deemed proper. Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter.

Applicant's arguments filed 08/26/2005 have been fully considered but they are not persuasive. Therefore, rejection of claims 1-7 is maintained.

Applicant states (1), "As applicant noted in the response to the last office action, the rejection of claims 1, 2, 6 and 7 should have been rejected under 35 U.S.C. 103 and not 35 U.S.C. 102, and responded accordingly". For clarification, claims 1, 2, 6 and 7, are rejected under 35 U.S.C. 103(a) as being anticipated by McDevitt et al. "Portable sensor array system", US Publication, 2003/0186228 A1 Oct., 2, 2003 (Hereinafter McDevitt) in view of Skeen et al. 5,257,369 (Hereinafter Skeen). An interview summary, dated 8/30/05 reflected the following, "the attorney (Mr. Steve Cha) called the examiner to point out that page 4 of the office action dated 7/8/2005, of the rejection with the combined teachings of "McDevitt in view of Skeen" should be under 35 U.S.C. 103(a) rather 35 U.S.C. 102(e). The examiner agreed with the attorney for the typo error as the claimed limitations of the claims 1, 2, 6 and 7 are rejected with the combined teachings of McDevitt and Skeen references instead of a single reference. The examiner indicated to the attorney that a supplemental action will be send out for the correction of the typo error". The supplemental office action containing the typo error correction of the office action, dated 7/8/2005 has been made of record. The office action, dated 7/8/2005, also contained response to the applicant concerns, for example, "teachings of McDevitt and Skeen are improperly combined, and there is not motivation or suggestion and a reasonable expectation of success". The examiner agrees with the applicant that the claims 1, 2, 6 and 7, are rejected under 35 U.S.C. 103(a) as being anticipated by McDevitt et al. "Portable sensor array system", US Publication, 2003/0186228 A1 Oct., 2, 2003 (Hereinafter McDevitt) in view of Skeen et al. 5,257,369 (Hereinafter Skeen).

Applicant argues (2), "cited reference McDervitt, U. S. Publication 2003/0186228 (Hereinafter McDervitt) fails to disclose the limitations, "the software program comprising a skeleton software architecture of generic and specific requirements, wherein said generic requirements focuses on generic meaning of service interfaces and said specific requirements provides for service specific issues", and "neither McDervitt nor Skeen, 5,257,369 nor Java 2 Platform, Enterprise edition, J2EE, Sun Microsystems, 12/17/1999. (Hereinafter Shannon-Sun) teach or suggest all elements recited in the claims". The examiner respectfully disagrees in response to applicant's arguments. The claims 1, 2, 6 and 7 are rejected by combined teachings of McDervitt and Skeen. The claims 3-5 are rejected by combined teachings of McDervitt, Skeen and Shannon-Sun. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). McDervitt discloses managing a family of systems having a shared family architecture (e.g., component-based techniques, and/or object-oriented techniques, col., 43, paragraph 425) based upon commonly used generic blocks of software (e.g., use of ActiveX controls, JavaBeans, Microsoft foundation classes, col., 43, paragraph 425) and wherein a component framework that comprises a skeleton of software architecture (e.g., component-based techniques and/or object-oriented techniques, col., 43, paragraph 425) and supports participating software plug-in components (e.g., use of ActiveX controls, JavaBeans, Microsoft foundation classes, col., 43, paragraph 425); individual software plug-in components provides one or more services/functions (e.g., inherent functionality of Javabeans, paragraph 425). Skeen discloses generic and specific requirements (e.g., col., 25, lines 28 - 53, figure 16), wherein said generic requirements focuses on generic meaning of service interfaces and said specific requirements provides provide for specific issues (e.g., col., 25, lines 28 - 53, figure 16). Shannon-Sun, discloses the inventory function including initializing the services (e.g., use of interfaces and classes to initialize services, section 2.1, chapter 2), assesses available services at initialization of the system or during run-time of the system (e.g., use of interfaces and classes to evaluate present services, section 2.1, chapter 2), and maintains a list of available services (e.g., use of interfaces and classes to monitor the present number of services in the system, section 2.1, chapter 2). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. For example, limitations, "architecture of generic and specific requirements", is broadly interpreted as one generic requirement (single) and one specific requirement (single); limitations, "said specific requirements provides for", is broadly interpreted as the specific requirement provides "something", "nothing", "anything", or "generic item", since what is provided is not mentioned; limitations, "service specific issues", that is after usage of "for" is not limited to what is not provided. The limitations, "issues" is broadly interpreted as topic, matter or subject. As mentioned above, the limitations are disclosed by combined teachings of McDervitt, Skeen and Shannon-Sun. Therefore, the rejection is maintained.

Applicant argues (3), "Teachings of McDevitt, Skeen and Shannon-Sun are improperly combined, and there is not motivation or suggestion and a reasonable expectation of success". The examiner respectfully disagrees in response to applicant's arguments. McDevitt clearly indicates that his invention can utilize known prior techniques and can be modified (e.g., paragraph 626, col., 64). Also, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of a primary reference. It is also not that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. *In re Keller*, 642 F.2d 414, 208 USPQ 871, 881 (CCPA 1981); *In re Young*, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991). The motivation to combine the references is to utilize well-known concept of Skeen's teachings of generic requirements and specific requirements that would help the system to handle interfaces for the services differently. The teachings of Shannon-Sun, for example, the interfaces and classes that can help initializing the services, assessing available services, and maintaining a list of available services would help develop a system to handle the services for the system. The combined teachings of McDevitt, Skeen and Shannon-Sun accomplish the broadly claimed invention. Therefore, the rejection is maintained.